

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Revision of the Commission's)	
Rules to Ensure Compatibility)	CC Docket No. 94-102
with Enhanced 911 Emergency)	
Calling Systems)	
)	
AT&T Wireless Services, Inc.)	DA-01-2187
Request for Waiver)	

To: The Commission

**COMMENTS OF APCO, NENA, AND NASNA
IN RESPONSE TO REVISED REQUEST FOR WAIVER OF
AT&T WIRELESS SERVICES, INC.**

The Association of Public-Safety Communications Officials-International, Inc. (“APCO”), the National Emergency Number Association (“NENA”), and the National Association of State Nine One One Administrators (“NASNA”) (collectively referred to herein as “Public Safety Organizations”) hereby submit the following comments in response to the Commission’s *Public Notice*, DA 01-2187, released September 19, 2001, seeking public comments regarding a September 17, 2001 revision to the Request for Waiver first filed by AT&T Wireless Services, Inc. (“AT&T”) on April 4, 2001, in the above-captioned proceeding.

The Public Safety Organizations strongly opposed AT&T’s initial waiver request, as it did not propose a location methodology that met, or even came close to meeting, the accuracy requirements in the Commission’s rules.¹ Nor did AT&T propose a specific plan or time frame for achieving full Phase II compliance. The switch-based MNLS technology originally proposed by AT&T for its TDMA network was simply unacceptable, and would leave subscribers stranded

¹ See Comments of APCO, NENA, and NASNA, filed May 7, 2001, and July 24, 2001.

with inferior location capability. Yet, the evidence in the record indicated that far more accurate technologies were available and would work with TDMA systems.

On September 17, 2001, AT&T submitted a letter to the Commission indicating that in lieu of the MNLS solution, it would implement a network overlay solution from either TruePosition or Grayson for its TDMA network. AT&T stated that it would complete a contract with one of those vendors by October 17, 2001, and that both vendors have represented that their technology would meet the FCC's accuracy requirements. In a proposal similar to that put forth by Cingular with regard to its TDMA network, AT&T states that it will install either the TruePosition or Grayson technology by December 31, 2002, at 1,600 cell sites serving markets in which there are pending Phase II requests from PSAPs. Thereafter, AT&T states that "it expects to be able to deploy Phase II technology within six months of a valid PSAP request."

The Public Safety Organizations filed comments regarding Cingular's TDMA waiver request on September 19, 2001. AT&T appears to be following Cingular's approach and, therefore, we hereby incorporate by reference our September 19 comments, while adding the following observations and concerns.

The current AT&T proposal is a substantial improvement from its prior request, and comes much closer to meeting the goals of Phase II. It is unfortunate, however, that the proposal has come so late in the process, just two weeks before October 1, 2001, when carriers were to begin Phase II deployment. AT&T knew from the beginning that it had an obligation to take every reasonable step to provide the required levels of Phase II accuracy by October 1, but instead clung to a location methodology that fell far short of those levels. AT&T has finally abandoned that position, and is now moving with Cingular toward real Phase II compliance. Unfortunately, both carriers' prior missteps and AT&T's steadfast refusal until recently to

change direction will postpone actual Phase II deployment on both carriers' networks until 15 months after October 1, 2001, to the detriment of millions of subscribers and the general public.²

Phase II implementation must move forward at this point. Our purpose is not to dwell on the past. However, at the same time the Commission must ensure future compliance with proposed implementation dates by dealing firmly with those carriers who failed to meet the October 1, 2001, deadline as a result of their own actions or inactions.

Unlike Cingular, AT&T does not address specifically the question of what should occur in the event that its location technology provider does not provide the promised level of accuracy necessary to meet the FCC's rules. To the extent that AT&T is contemplating following Cingular on this issue as well, we offer the following comment and rejoinder to Cingular's recent reply comments.³

Cingular is requesting blanket relief now from future enforcement actions that might otherwise result from its inability to satisfy the Commission's accuracy requirements. The Public Safety Organizations criticized that approach in their comments of September 19, indicating that "Cingular's eligibility for relief from enforcement will depend on the energy and quality of its efforts to come up with alternatives should its first choice fail." Cingular's vigorous opposition to this statement in its reply comments suggests a misinterpretation of our position.

² Cingular's report to the FCC, by letter of September 28, 2001, raises new concerns as it appears that handset providers will not be able to meet the schedule for E-OTD units proposed in Cingular's original waiver request of July 6, 2001 (page 26). Not only is the benchmark of 25% location-capable handset deployment by December 31, 2001 in jeopardy, but there is, at this time, insufficient information about handset availability for Cingular to propose a new schedule. As we have suggested before, when the handset suppliers come up with new dates, they should put these in the form of an enforceable commitment to the FCC. Given Cingular's experience, the FCC should ask AT&T for a similar commitment from its E-OTD handset suppliers. We continue to be concerned that Phase II implementation is at the mercy of manufacturer (including switch vendor) and carrier business decisions which are portrayed as beyond anyone's control. The FCC needs to take control.

³Reply Comments of Cingular Wireless, filed September 26, 2001.

First, we made clear in our September 19 comments that “the best predictors of Phase II performance will be actual experience” and that “we are no more inclined than Cingular toward further pre-testing.” Therefore, we do not criticize Cingular’s technology choice or decision at this point to move forward based on the technology provider’s guarantees. Second, we did *not* assert that a future failure by Cingular’s selected technology will *necessarily* require “starting over” with another approach. Rather, we simply suggested that if a carrier’s preferred solution fails in the future, the Commission should determine *at that time* whether further relief is appropriate, based in part on “the energy and quality of the [carrier’s] efforts to come up with alternatives.” Granting a blanket waiver now would be premature and inappropriate.

CONCLUSION

The Commission should carefully consider AT&T’s modified waiver request consistent with that set forth above and in our comments regarding the similar request of Cingular.

Respectfully submitted,

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